

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

OVERNITE TRANSPORTATION)	
COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	No. 99-2747 DV
)	
INTERNATIONAL BROTHERHOOD OF)	
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN)	
AND HELPERS OF AMERICA, AFL-CIO and)	
TEAMSTERS LOCAL UNION NO. 667,)	
affiliated with the INTERNATIONAL)	
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS))	
WAREHOUSEMEN AND HELPERS OF AMERICA,)	
AFL-CIO,)	
)	
Defendants.)	

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF OVERNIGHT TRANSPORTATION'S MOTION TO COMPEL

Before this court is the October 4, 2001 motion of the plaintiff Overnight Transportation Company's ("Overnight") to compel the defendants (collectively referred to as the "Unions") to produce certain documents. The motion was referred to the United States Magistrate Judge for determination.

As an initial matter, the court notes that this motion to compel filed one month before the November 5, 2001 trial date is untimely. Local Rule 26.1(d) of the Western District of Tennessee provides "All discovery shall be completed and all motions in connection with disputed discovery shall be filed no later than the

dates designated in the scheduling order." (emphasis added). The plain language of the amended scheduling order indicates that all discovery was to be "completed" by May 31, 2001, nearly five months ago. The term "completed" means "finished," or with "nothing substantial remaining to be done." Black's Law Dictionary 285 (6th ed. 1990). Additionally, the amended scheduling order provides that the deadline for filing pretrial motions was July 9, 2001. Moreover, the Unions' discovery responses which are the subject of the motion to compel were filed by the Unions on April 7, 2000. Overnite has had ample time to pursue these documents during the course of this protracted litigation. Sheer inadvertence on the part of Overnite to pursue documents it now deems important to its case should not be used to delay the trial or interfere with trial preparation, especially now that the deadlines for discovery and pretrial motions have passed. Nevertheless, because both sides have briefed the motion to compel and because the Unions did not raise the timeliness issue, the court will rule on the substance of the present motion.

Upon review of the motion and the responses to the motion, the court finds ten requests remaining at issue in this discovery dispute and rules on those requests as follows:

Overnight Request No. 3: Motion to compel granted. The Unions must produce the lists requested. The lists are relevant to

damages, as the lists would reveal the persons or entities who received the letter sent by Phil Young regarding the strike.

Overnight Request No. 6: Motion to compel granted. The documents sought pertain to the picketing that occurred at TCW and Shipper's Express and are relevant to the issue of liability. The Unions have already produced documents dealing with the identical subject matter in response to Overnight Request No. 8(b),; therefore, the Unions have no basis for objection in denying production of documents in response to this request.

Overnight Request No. 7: Motion to compel denied. The Unions assert that no such documents exist. The request is therefore moot.

Overnight Request No. 8(a): Motion to compel denied. The Unions have produced all documents in their possession aside from those documents protected by attorney-client privilege.

Overnight Request No. 13: Motion to compel granted. The Unions must produce the names of the attendees at their meeting where the activities at Overnight's two customer locations in Memphis were discussed. The Unions must also produce the minutes from the meeting. Any privileged information may be redacted from the minutes.

Overnight Request No. 14: Motion to compel denied. The request is overly broad and unduly burdensome. Further, the documents

sought are irrelevant to this matter. The Unions already have produced all responsive documents to this request.

Overnight Request No. 15: Motion to compel denied. The request is overly broad and requests irrelevant information.

Overnight Request No. 16: Motion to compel denied. The request is overly broad and requests irrelevant information.

Overnight Request No. 17: Motion to compel denied. The request seeks irrelevant information.

Overnight Request No. 18: Motion to compel denied. The request seeks irrelevant information.

For the foregoing reasons, Overnight's motion to compel is granted in part and denied in part. Due to the proximity of trial in this case, the documents must produced by Wednesday, October 31, 2001, and the parties have until Wednesday, October 31, 2001, to appeal the decision on the preceding motion to compel to the district court.

IT IS SO ORDERED this 26th day of October, 2001.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE